



**State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES**

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3503 FAX (603) 271-2982



Mr. Charles Donahue
33 Indian Rock Road
Windham, NH 03087
RE: File #2002-330

LETTER OF DEFICIENCY
#SP-2002-05
April 19, 2002

Dear Mr. Donahue:

On February 22, 2002, personnel from the Department of Environmental Services, Water Division ("DES") conducted a site inspection of your property identified as Windham Tax Map 21-K, Lot# 35, Turtle Rock Road, Cobbetts Pond, Windham, New Hampshire. The purpose of this site inspection was to determine compliance with RSA 483-B; the Comprehensive Shoreland Protection Act ("CSPA") and RSA 482-A, the New Hampshire Wetlands Law. During the inspection the following deficiencies were noted:

Within the natural woodland buffer of the protected shoreland, a healthy, well-distributed stand of trees, saplings, shrubs and ground covers was not left in place.

- 2 Three stumps were removed within 50 feet of the Cobbetts Pond reference line.

Two areas of the bank within NHDES Wetland jurisdiction, one measuring 14 linear feet by 10 feet, the other measuring 6 feet by 5 feet, had been disturbed without a permit.

In response, you are requested to take the following actions:

Within 30 days of receipt of this Letter of Deficiency, submit a restoration plan to DES

The restoration plan should include replacement of native and natural vegetation and restoration of the natural shoreline of Cobbetts Pond. Please submit the following with the restoration plan:

- a. A plan with dimensions, drawn to scale, showing;
 - i. existing conditions,
 - ii. proposed conditions after restoration with native vegetation.
- b. A detailed description of the proposed means of erosion and sediment controls and stabilization of the restoration area;
- c. A detailed description of the proposed planting plan for the stabilization and revegetation of the restoration area. A plantings plan showing the number, type of plant species, proposed location of plantings, and diameters of the plant species at breast height. Saplings should be a minimum of 4-6 feet in height and all plantings should be from the list of New Hampshire native and naturalized species. Saplings should be proposed in areas where trees were removed.

d. A detailed description of how the bank will be restored. This should be accomplished by restoring the disturbed areas to original grade, applying a sufficient amount of loam to sustain vegetation, stabilization with jute matting, and planting with native and naturalized species.

e. A description of the proposed construction sequence and methods for accomplishing the restoration, and time frame for completion.

3. Implement the restoration plan only after receiving written approval and as conditioned by DES.

During the inspection you indicated to the DES personnel on-site that you are considering applying to DES for a beach and a dock. If this is the case, please indicate these proposed structures on your restoration plan. It would make sense to locate the "perched beach" where the larger disturbance in the bank has occurred. DES can help you with the permit application process should you require assistance.

Please be aware that removal of stumps located within 50 feet of a public water is prohibited. DES is authorized to seek fines of up to \$1,500. per stump for this violation. Stumps are allowed to be ground flush with the ground surface, as long as the root system is left in place.

RSA 483-A, the New Hampshire Wetlands Law, was enacted to protect and preserve wetlands and surface waters from unregulated despoliation. Prior to dredging, filling, or construction in and adjacent to wetlands or surface waters, an individual is required to obtain a permit.

RSA 483-B, CSPA, was enacted to protect and preserve the shorelands of the State to maintain the integrity and exceptional quality of the State's public waters. RSA 483-B and Env-Ws 1400-1409 establishes minimum standards for the future subdivision, use, and development of the shorelands within 250 feet of the state's public waters.

DES personnel may conduct another inspection at a later date to determine whether you have come into and are maintaining full compliance with the applicable statutes and rules.

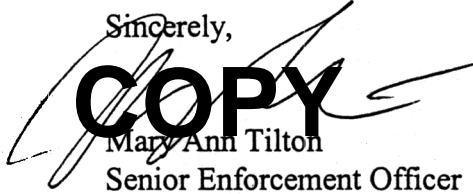
Issuance of this letter shall not preclude further enforcement by DES. Failure to comply with RSA 482-A or RSA 483-B will result in enforcement by DES, including but not limited to, the issuance of fines, administrative orders, or referral to the New Hampshire Office of the Attorney General for prosecution of civil or criminal penalties. If an order is issued to you, it may also be recorded with the Registry of Deeds in an encumbrance against your property.

All documents submitted in response to this Letter of Deficiency should be addressed as follows

Allyson Gourley
Shoreland Compliance Coordinator
NHDES
6 Hazen Drive, PO Box 95
Concord, NH 03302-0095


If you have any questions please contact Allyson Gourley at (603) 271-6876.

Sincerely,


COPY
Mary Ann Tilton
Senior Enforcement Officer
Wetlands Bureau

CERTIFIED MAIL

Enclosures

cc:  Gretchen C. Rule, Enforcement Coordinator-DES
Russell A. Nylander, P.E., Chief Engineer-WD/DES
Mary Ann Tilton, Wetlands Bureau
Shoreland Program-NHDES
Windham Conservation Commission
Windham Board of Selectmen
Windham Building Department